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HOUSE BILL 256

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Gail C. Beam

FOR THE CORRECTIONS OVERSIGHT AND JUSTICE COMMITTEE

AN ACT

RELATING TO CRIMINAL SENTENCING; PROVIDING THE PAROLE BOARD WITH EXPRESS AUTHORITY TO REFER CERTAIN PAROLE VIOLATORS TO ALCOHOL OR DRUG TREATMENT PROGRAMS AS A NEW CONDITION OF PAROLE; AMENDING A SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 31-21-14 NMSA 1978 (being Laws 1955, Chapter 232, Section 17, as amended) is amended to read:

"31-21-14. RETURN OF PAROLE VIOLATOR.--

A. At any time during a prisoner's release on parole, the board or the director may issue a warrant for the arrest of the released prisoner for violation of [~~any of~~] the conditions of release or issue a notice to appear to answer a charge of violation. The notice shall be served personally upon the prisoner. The warrant shall authorize the

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1 ~~[superintendent]~~ warden of the institution from which the
2 prisoner was released to return the prisoner to the actual
3 custody of the institution or to any other suitable detention
4 facility designated by the board or the director. If the
5 prisoner is out of the state, the warrant shall authorize the
6 ~~[superintendent]~~ warden to return him to the state.

7 B. The director may arrest the prisoner without a
8 warrant or may deputize ~~[any]~~ an officer with power of arrest
9 to do so by giving him a written statement setting forth that
10 the prisoner has, in the judgment of the director, violated the
11 conditions of his release. ~~[Where]~~ When an arrest is made
12 without a warrant, the prisoner shall not be returned to the
13 institution unless authorized by the director or the board.
14 Pending hearing as provided by law upon ~~[any]~~ a charge of
15 violation, the prisoner shall remain incarcerated in the
16 institution.

17 C. Upon arrest and detention, the board shall cause
18 the prisoner to be promptly brought before it for a parole
19 revocation hearing on the parole violation charged, under rules
20 and regulations the board may adopt. If violation is
21 established, the board may continue or revoke the parole or
22 enter any other order as it sees fit. If the board determines
23 that the prisoner violated a condition of his release regarding
24 use of alcohol or drugs, the board may refer the prisoner to an
25 alcohol or drug treatment program as a new condition of his

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release on parole.

D. A prisoner for whose return a warrant has been issued shall, if it is found that the warrant cannot be served, be a fugitive from justice. If it appears that he has violated the provisions of his release, the board shall determine whether the time from the date of the violation to the date of his arrest, or any part of it, shall be counted as time served under the sentence."

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2004.